

## **REMARKS**

The Examiner has rejected the pending claims because the sequence listing does not comply with the requirements of 37 CFR 1.821 through 1.825 because the "total number of SEQ ID (stated as 254) found on the paper copy of the sequence listing does not agree with the number of the last SEQ ID, which is 258". Furthermore, the Examiner states that "the entries for SEQ ID Nos. 233-236 fail to identify any nucleotide or amino acid sequence, at all."

The previously submitted paper copy of the sequence listing contained a typographical error on the first page; it indicated that there were 254 sequences, when, in fact, there were 258 sequence numbers (as contained in the computer readable copy form); four of the SEQ ID Nos. were intentionally left blank.

With the present Amendment, Applicants have corrected the typographical error in the paper copy and have included herewith a substitute PDF copy of the Sequence Listing and Applicants are also submitting, by the USPTO's Electronic Filing System, a substitute computer readable form (CFR) of the sequence listing.

Applicants believe that the corrected sequence listing complies with the requirements of 37 CFR 1.821 through 1.825.

### **Claim Objections**

The Examiner has objected Claim 79 because "claim 79 depends from Claim 88; however there is not claim 88."

With the present Amendment, Applicants have corrected a typographical error in claim 79 to change "88" to "78".

### **Rejection under 35 U.S.C. §101**

The Examiner has rejected Claims 57-62 "under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter." The Examiner states that peptides "of the invention were designed based on the supposed helical structure and amphipathic properties of the 22 amino acid consensus sequence which was derived from

the helical repeats of ApoA-1. Thus claims 57-62 appear to encompass a product of nature, and so are non-statutory subject matter.

Applicants respectfully disagree. As pointed out by the Examiner, Claim 57 reads: "Peptide PVLDLFRELLNELLEALKQKLK (SEQ ID NO: 4). This peptide is based on the helical repeats of ApoA-1 and is not the actual sequence of ApoA-1. While this peptide might relate to a portion of the protein sequence of ApoA-1, it is not ApoA-1. ApoA-1 is a large protein whereas the peptide of Claim 57 is a 22 amino acid peptide that is made either by direct synthesis or by other art-known techniques for the preparation of peptides. (Specification at page 76, section 5.2) It is not a product of nature. As such, this 22-amino acid peptide qualifies as statutory subject matter.

#### **Rejection under 35 U.S.C. §112**

The Examiner has rejected Claims 57-79 under 35 U.S.C. §112 "as being indefinite for failing to particularly point out and distinctly claim the subject matter with which applicant regards as the invention." The Examiner states that because "base claim 57 does not recite a connecting term such as 'consisting of' or 'comprising', etc., so that relationship of the claim term '[p]eptide' to the claimed amino acid sequence of SEQ ID 4, is vague and indefinite." Applicants have amended claim 57 to include the language "comprising" in order to clarify the intended scope of the claim.

#### **Rejections based on obviousness-type double patenting**

Claims 57-79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-23 of U.S. Patent No. 6,844,327.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57 - 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-48 of U.S. Patent No. 6,753,313.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57 - 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-58 of U.S. Patent No. 6,716,816.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57 - 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-36 of U.S. Patent No. 6,630,450.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57 - 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-38 of U.S. Patent No. 6,602,854.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57 - 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-34 of U.S. Patent No. 6,573,239.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57 - 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-48 of U.S. Patent No. 6,573,239.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57 - 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-9 of U.S. Patent No. 6,518,412.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57 - 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-21 of U.S. Patent No. 6,376,464.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57 - 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-21 of U.S. Patent No. 6,329,341.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57 - 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-49 of U.S. Patent No. 6,046,166.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57 - 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-54 of U.S. Patent No. 6,037,323.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57 - 79 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-58 of U.S. Patent No. 6,004,925.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57-79 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 76,78-103 of co-pending application 09/865,989 (PG PUB: 2004/0029807A9). Subsequent to the office action to which this reply is directed, application 09/865,989 has been issued as U.S. Patent No. 6,734,169 (issue date May 11, 2004).

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57-79 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1, 3-17 and 36 of co-pending application 10/099,574 (PG PUB: 2003/0060604A1). Subsequent to the office action to which this reply is directed, application 09/865,989 has been issued as U.S. Patent No. 7,157,425 (issue date January 2, 2007).

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57-79 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1, 3-8, 12-17, 29, 34, 35, 37, 42, and 57 of co-pending application 10/099,836 (PG PUB: 2003/0203842A1). Subsequent to the office action to which this reply is directed, application 10/099,836 has been issued as U.S. Patent No. 7,189,689 (issue date March 13, 2007).

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57-79 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 53-58, 60-83 of co-pending application 10/801,897 (PG PUB: 2004/0198662A1).

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

Claims 57-79 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1, 19-21, 28, 36, 41, 43-46, 53, and 56-57 of co-pending application 10/937,767 (PG PUB: 2005/0080013A1).

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

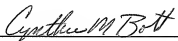
Claims 57-79 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1, 19-21, 28, 36, 41, 43-46, 53, 56, and 57 of co-pending application 11/482,292.

Without acquiescing with the propriety of the rejection and in order to expedite prosecution of the present application, Applicants respectfully request that the rejection be withdrawn in view of the Terminal Disclaimer and fee filed herewith.

It is respectfully submitted that the claims have been put in condition for allowance. Notification to this effect is earnestly solicited. The Examiner is encouraged to contact the Applicants' undersigned attorney to discuss this matter if any questions should arise upon further examination of the pending claims

Respectfully submitted,

Date: 4-17-07

  
Cynthia M. Bott, J.D., Ph.D.  
Reg. No. 46,568  
2800 Plymouth Road  
Ann Arbor, MI 48105  
Phone: 734-622-4476  
Fax: 734-622-1553